

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FREE SPEECH COALITION, INC. et al.,

Plaintiffs,

v.

THE HONORABLE ERIC H. HOLDER, JR.,

Attorney General,

Defendant.

)

) Civil Action No. 2:09-4607

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) Judge Michael M. Baylson

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)

) DEFENDANT'S RESPONSES TO

) PLAINTIFFS' FIRST SET OF

) REQUESTS FOR PRODUCTION

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Pursuant to Fed. R. Civ. P. 26 and 34, defendant Eric H. Holder, Jr. ("defendant") hereby submits his objections and responses to plaintiffs' First Set of Requests for Production ("Requests" or "RFPs").

GENERAL OBJECTIONS

1. Defendant objects to plaintiffs' Requests to the extent the information contained in the requested documents is not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to plaintiffs' Requests to the extent the information contained in the requested documents exceeds the scope of discovery permitted by the Federal Rules of Civil Procedure and/or the scope of the Third Circuit's mandate when remanding this case, as described in its decision in *Free Speech Coalition, Inc. v. Attorney General*, 677 F.3d 519 (3d Cir. 2012).

2. Defendant objects to plaintiffs' Requests to the extent they request that defendant identify or provide any files, records, reports, and any other papers and documents pertaining to

any individual to the extent that such information is protected by the Privacy Act, 5 U.S.C. § 552a; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to plaintiffs' Requests to the extent that they could be construed as seeking information protected from disclosure by the attorney-client privilege, the work product doctrine, the deliberative process privilege, the law enforcement privilege, or any other applicable privilege or immunity recognized under statute, regulation or applicable case law. Defendant does not waive any applicable privilege through the inadvertent or partial disclosure of any otherwise privileged information in response to these Requests. In conformance with Fed. Rule Civ. P. 26(b)(5), defendant will describe the nature of any documents that are withheld as subject to privilege or protection as attorney work product.

3. Defendant objects to plaintiffs' Requests to the extent the requested documents or information therein is publicly available and/or obtainable from other sources that are more convenient, more efficient, more practical, less burdensome and/or less expensive, on the grounds that such production would be unduly burdensome and unreasonably cumulative.

4. Defendant objects to plaintiffs' Requests to the extent they seek information from any individual or entity other than defendant, and to the extent they demand the identification of documents not within the possession, custody, or control of defendant.

5. Defendant objects to plaintiffs' Requests on grounds of overbreadth and undue burden, particularly in that they purport to require defendant to respond with respect to every office within the United States Department of Justice, including all components of the Department of Justice, all United States Attorney's Offices, and all field offices of the Federal Bureau of Investigation, and in that they do not place any reasonable temporal limitation on the

scope of the response that they purport to require from defendant.

6. Defendant objects to the Instructions set forth in plaintiffs' Requests to the extent that they expand, alter, or modify the scope of permissible discovery under the Federal Rules of Civil Procedure and the Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania.

7. Defendant objects to plaintiffs' Requests on the grounds that they, together with their Definitions and Instructions, are so vague, broad, general and all-inclusive that they do not permit a proper or reasonable response and are therefore unduly burdensome.

8. The following responses are based upon information currently known to defendant, and defendant reserves the right to supplement or amend his responses should additional or different information become available.

9. Nothing contained in the following responses constitutes a waiver of any applicable objection or privilege as to the requested discovery. To the extent that defendant identifies and/or produces documents, he does not concede that the information in those documents is relevant to this action. Defendant expressly reserves the right to object to further discovery of the subject matter of these Requests and the introduction into evidence of any document produced in response to these Requests, or of any portion thereof.

10. The foregoing objections are incorporated in each of the responses set forth below as if the same had been repeated in full and are neither limited nor waived by the recital of similar or different objections in each of the responses, nor by the provision of documents – in addition to the objections – in response to any of these Requests.

SPECIFIC OBJECTIONS AND RESPONSES

PLAINTIFFS' RFP NO. 1: Any and all documents identified in or referred to in answering Plaintiffs' Interrogatories Propounded to Eric H. Holder, Jr.

OBJECTIONS: Defendant incorporates his General Objections by reference.

RESPONSE: Subject to and without waiving those objections, defendant responds as follows: Defendant is not aware of any documents responsive to this Request.

PLAINTIFFS' RFP NO. 2: Any and all expert reports, including all drafts, prepared in connection with this matter.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that this Request is premature. Defendant further objects that this request seeks information that may be protected by the attorney work product doctrine, attorney-client privilege, or other applicable privileges. Defendant will produce any expert reports in accordance with, and at the time contemplated under, the Scheduling Order.

PLAINTIFFS' RFP NO. 3: Any and all reports submitted by the Attorney General to Congress concerning the enforcement of 18 U.S.C. § 2257 pursuant to Section 503(k) of the Adam Walsh Protection and Safety Act of 2006.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that this Request seeks documents outside the scope of discovery permissible pursuant to the Third Circuit's mandate in this case. This Request seeks documents containing enforcement information regarding 18 U.S.C. § 2257. Such information is not relevant to the question of whether the requirements of § 2257 are narrowly tailored as applied to plaintiffs or whether, in connection with plaintiffs' facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications, nor is it reasonably calculated to lead to the discovery of admissible evidence on

those issues. To the extent that plaintiffs seek this information in connection with their claim that § 2257 does not advance a substantial government interest, the Third Circuit has already rejected plaintiffs' argument on that point, upholding the district court's conclusion "that the government adequately demonstrated that the Statutes advance the substantial interest of protecting children." *Free Speech Coal.*, 677 F.3d at 536. That issue cannot be relitigated here, and discovery in connection with that issue is beyond the scope of the Third Circuit's mandate.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for documents responsive to this Request and has not found any responsive documents.

PLAINTIFFS' RFP NO. 4: Any and all documentary evidence regarding the use of underage performers in expression produced by the adult industry in the United States.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that the Request is vague in its use of the terms "documentary evidence regarding the use of," "expression," and "adult industry." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country, in order, first, to find materials regarding the use of underage individuals, and second, to determine whether the depictions in which such individuals appear were "produced by the adult industry." Defendant is unaware of any method for making the latter determination. Among other things, the contours of what constitutes the "adult industry" are vague and insufficiently defined. Defendant further objects that the Request seeks information

that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence. Whether defendant has any documentary evidence that the “adult industry” uses underage individuals in its production of visual depictions of sexually-explicit conduct is outside the scope of issues before the Court on remand. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and 2257A directly advance the Government’s substantial interest in, among other things, preventing the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that “the problems identified are real, not conjectural.” *Free Speech Coal.*, 677 F.3d at 535. The only issues properly before the Court are whether the requirements are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs’ facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

PLAINTIFFS’ RFP NO. 5: U.S. Department of Justice, “The National Strategy for Child Exploitation Prevention and Interdiction,” A Report to Congress (August 2010) and any and all drafts.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that this Request is unduly burdensome, in that the requested document is already publicly available at <http://www.projectsafekchildhood.gov/docs/natstrategyreport.pdf>.

Defendant further objects that the information contained in the requested document is outside the scope of issues before the Court on remand, is not relevant to any issues properly before the Court on remand, and is not reasonably calculated to lead to the discovery of admissible evidence. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and 2257A directly advance the Government’s substantial interest in, among other things, preventing

the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that “the problems identified are real, not conjectural.” *Free Speech Coal.*, 677 F.3d at 535. The contents of a report describing the Attorney General’s national strategy for preventing and prosecuting occurrences of child exploitation are not related to the question of whether the requirements of 18 U.S.C. §§ 2257 and 2257A are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs’ facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

Defendant further objects that the request for “any and all drafts” is unduly burdensome in that it requires defendant to search multiple Department of Justice components for drafts of a publicly-available final document that itself is not relevant to, and outside the scope of, issues properly before the Court on remand. In addition, to the extent any drafts contain information duplicative and cumulative of information in the final document, such information is already publicly available in the final document. As to the drafts that have been located, defendant further objects to the production of those that are identified on the accompanying privilege log as protected by the deliberative process privilege. Defendant reserves the right to object to production of any additional drafts that may be located on the basis of any applicable privilege or on any other basis.

PLAINTIFFS’ RFP NO. 6: U.S. Department of Justice, “Project Safe Childhood Fact Sheet” and any and all drafts.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that this Request is unduly burdensome, in that the requested document

is already publicly available at <http://www.justice.gov/psc/fact-sheet.html>. Defendant further objects that the information contained in the requested document is outside the scope of issues before the Court on remand, is not relevant to any issues properly before the Court on remand, and is not reasonably calculated to lead to the discovery of admissible evidence. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and 2257A directly advance the Government's substantial interest in, among other things, preventing the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that "the problems identified are real, not conjectural." *Free Speech Coal.*, 677 F.3d at 535. The contents of a fact sheet describing the Project Safe Childhood initiative are not related to the question of whether the requirements of 18 U.S.C. §§ 2257 and 2257A are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs' facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

Defendant further objects that the request for "any and all drafts" is unduly burdensome in that it requires defendant to search multiple Department of Justice components for drafts of a publicly-available final document that itself is not relevant to, and outside the scope of, issues properly before the Court on remand. In addition, to the extent any drafts contain information duplicative and cumulative of information in the final document, such information is already publicly available in the final document. As to the drafts that have been located, defendant further objects to the production of those that are identified on the accompanying privilege log as protected by the deliberative process privilege. Defendant reserves the right to object to production of any additional drafts that may be located on the basis of any applicable privilege or

on any other basis.

PLAINTIFFS' RFP NO. 7: Any and all written recommendations to the Attorney General by Dr. Michael Bourke, Dr. Michael Seto, and/or Dr. Joe Sullivan to consider in the Department's fight to stop child exploitation and abuse.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that the information contained in the requested document is outside the scope of issues before the Court on remand, is not relevant to any issues properly before the Court on remand, and is not reasonably calculated to lead to the discovery of admissible evidence. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and 2257A directly advance the Government's substantial interest in, among other things, preventing the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that "the problems identified are real, not conjectural." *Free Speech Coal.*, 677 F.3d at 535. The contents of any recommendations "to consider in the Department's fight to stop child exploitation and abuse" would not be related to the question of whether the requirements of 18 U.S.C. §§ 2257 and 2257A are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs' facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for documents responsive to this Request and has not found any responsive documents.

PLAINTIFFS' RFP NO. 8: U.S. Department of Justice, "Juvenile Justice Bulletin," December 2004, Office of Juvenile Justice and Delinquency Programs, Office of Justice Programs, by David Finkelhor and Richard Ormrod, and any and all drafts.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that this Request is unduly burdensome, in that the requested document is already publicly available at <http://www.unh.edu/ccrc/statistics/papers.html>. Defendant further objects that the information contained in the requested document is outside the scope of issues before the Court on remand, is not relevant to any issues properly before the Court on remand, and is not reasonably calculated to lead to the discovery of admissible evidence. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and 2257A directly advance the Government's substantial interest in, among other things, preventing the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that "the problems identified are real, not conjectural." *Free Speech Coal.*, 677 F.3d at 535. The contents of a report regarding patterns in child pornography-related crimes discernible from the FBI's National Incident-Based Reporting System are not related to the question of whether the requirements of 18 U.S.C. §§ 2257 and 2257A are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs' facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

Defendant further objects that the request for "any and all drafts" is unduly burdensome in that it requires defendant to search multiple Department of Justice components for drafts of a publicly-available final document that itself is not relevant to, and outside the scope of, issues properly before the Court on remand. In addition, to the extent any drafts contain information duplicative and cumulative of information in the final document, such information is already publicly available in the final document.

PLAINTIFFS' RFP NO. 9: U.S. Department of Justice, "Child Pornography Possessors Arrested in Internet-Related Crimes: Findings from the National Juvenile Online Victimization Study," 2005, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, and any and all drafts.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that this Request is unduly burdensome, in that the requested document is already publicly available at [https://www.ncjrs.gov/App/publications/](https://www.ncjrs.gov/App/publications/Abstract.aspx?id=210701)

[Abstract.aspx?id=210701](https://www.ncjrs.gov/App/publications/Abstract.aspx?id=210701). Defendant further objects that the information contained in the requested document is outside the scope of issues before the Court on remand, is not relevant to any issues properly before the Court on remand, and is not reasonably calculated to lead to the discovery of admissible evidence. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and 2257A directly advance the Government's substantial interest in, among other things, preventing the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that "the problems identified are real, not conjectural." *Free Speech Coal.*, 677 F.3d at 535. The contents of a report regarding those who possess child pornography and have been arrested for internet-related crimes are not related to the question of whether the requirements of 18 U.S.C. §§ 2257 and 2257A are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs' facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

Defendant further objects that the request for "any and all drafts" is unduly burdensome in that it requires defendant to search multiple Department of Justice components for drafts of a publicly-available final document that itself is not relevant to, and outside the scope of, issues

properly before the Court on remand. In addition, to the extent any drafts contain information duplicative and cumulative of information in the final document, such information is already publicly available in the final document. Defendant reserves the right to object to production of any drafts that may be located on the basis of any applicable privilege or on any other basis.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for drafts responsive to this Request and has not found any responsive drafts.

PLAINTIFFS' RFP NO. 10: Bureau of Justice Statistics: Special Report, "Federal Prosecution of Child Sex Exploitation Offenders, 2006," (December 2007) and any and all drafts.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that this Request is unduly burdensome, in that the requested document is already publicly available at <http://www.bjs.gov/content/pub/pdf/fpcseo06.pdf>. Defendant further objects that the information contained in the requested document is outside the scope of issues before the Court on remand, is not relevant to any issues properly before the Court on remand, and is not reasonably calculated to lead to the discovery of admissible evidence. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and 2257A directly advance the Government's substantial interest in, among other things, preventing the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that "the problems identified are real, not conjectural." *Free Speech Coal.*, 677 F.3d at 535. The contents of a report regarding the federal prosecution of those who have been identified as having violated federal laws prohibiting child pornography, and other forms of sexual exploitation of children, are not related to the question of whether the

requirements of 18 U.S.C. §§ 2257 and 2257A are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs' facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

Defendant further objects that the request for "any and all drafts" is unduly burdensome in that it requires defendant to search multiple Department of Justice components for drafts of a publicly-available final document that itself is not relevant to, and outside the scope of, issues properly before the Court on remand. In addition, to the extent any drafts contain information duplicative and cumulative of information in the final document, such information is already publicly available in the final document. As to the drafts that have been located, defendant further objects to the production of those that are identified on the accompanying privilege log as protected by the deliberative process privilege. Defendant reserves the right to object to production of any additional drafts that may be located on the basis of any applicable privilege or on any other basis.

PLAINTIFFS' RFP NO. 11: U.S. Department of Justice, "Review of Child Pornography and Obscenity Crimes," Report Number I-2001-07, July 19, 2001, Report of the Inspector General and any and all drafts.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that this Request is unduly burdensome, in that the requested document is already publicly available at <http://www.justice.gov/oig/reports/plus/e0107/results.htm>.

Defendant further objects that the information contained in the requested document is outside the scope of issues before the Court on remand, is not relevant to any issues properly before the Court on remand, and is not reasonably calculated to lead to the discovery of admissible evidence. The Third Circuit has already held that the requirements of 18 U.S.C. §§ 2257 and

2257A directly advance the Government's substantial interest in, among other things, preventing the use of underage individuals in visual depictions of sexually-explicit conduct, and that the government has already adequately demonstrated that "the problems identified are real, not conjectural." *Free Speech Coal.*, 677 F.3d at 535. The contents of a report regarding the number of federal child pornography and obscenity prosecutions that occurred between 1980 and 2000 are not related to the question of whether the requirements of 18 U.S.C. §§ 2257 and 2257A are narrowly tailored as applied to plaintiffs, and whether, in connection with plaintiffs' facial overbreadth challenge, there are unconstitutional applications of the statute that are substantial in comparison to valid applications.

Defendant further objects that the request for "any and all drafts" is unduly burdensome in that it requires defendant to search multiple Department of Justice components for drafts of a publicly-available final document that itself is not relevant to, and outside the scope of, issues properly before the Court on remand. In addition, to the extent any drafts contain information duplicative and cumulative of information in the final document, such information is already publicly available in the final document. Defendant reserves the right to object to production of any drafts that may be located on the basis of any applicable privilege or on any other basis.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for drafts responsive to this Request and has not found any responsive drafts.

PLAINTIFFS' RFP NO. 12: The data compiled by computer forensic specialist Kristi Witsman and described in her declaration submitted in *Connection Distributing Co. v. Gonzalez*, Case No. 1:95 CV1993, U.S. Dist. Ct., N.D. Ohio (Manos, J.) (attached).

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that this Request is unduly burdensome, in that the underlying data would have come from a third party (Connection Distributing Co.) to which plaintiffs are equally or better able to gain access. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 13: Any data in your custody, possession, or control regarding the production of visual depictions of actual human beings engaged in actual or simulated sexually explicit conduct during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that the Request is vague in its use of the terms "data . . . regarding the production of." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of

Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications. Defendant further objects that this Request is overbroad and unduly burdensome to the extent it seeks production of reports or publications that include data or statistics that are duplicative or cumulative of data or statistics that will be provided or that can be obtained elsewhere, or to the extent that it seeks production of reports or publications that contain data about visual depictions of sexually explicit conduct, from which information about the “production” of such visual depictions cannot be isolated. A large number of reports or publications may contain references to data or statistics regarding visual depictions of sexually-explicit images (for example, the number of child pornography convictions during a certain period), but defendant is unaware of any reasonable method of searching all reports or publications in its possession, custody, or control in a manner that could identify all such reports or publications; rather, to the extent such a search were possible at all, it would require a highly burdensome manual review of each potentially-responsive document. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence. As to the documents that have been located, defendant further objects to the production of those that are identified on the accompanying privilege log as

protected by the deliberative process privilege and/or law enforcement privilege.

RESPONSE: Subject to and without waiving any objections, defendant will provide nonprivileged documents that he understands to be responsive to this Request and that have been located, and that defendant has not identified as publicly available. Defendant has identified the following documents in his possession as publicly available:

http://journals.lww.com/ajnonline/Fulltext/2011/07000/Original_Research_Online_Social_Net_working.21.aspx

<http://www.apa.org/pubs/journals/releases/amp-632111.pdf>

<http://www.unh.edu/ccrc/pdf/CV201.pdf>

<http://pediatrics.aappublications.org/content/129/1/13.full.html>

<http://pediatrics.aappublications.org/content/129/1/4.full>

http://www.missingkids.com/en_US/documents/law-enforcement-bulletin-4.pdf

http://www.unh.edu/ccrc/pdf/CV270_Child%20Porn%20Production%20Bulletin_4-13-12.pdf

<http://www.unh.edu/ccrc/pdf/CV204%20CP%20possessors.pdf>

<http://www.unh.edu/ccrc/pdf/jvq/CV81.pdf>

<https://web.cs.umass.edu/publication/docs/2012/UM-CS-2012-016.pdf>

PLAINTIFFS' RFP NO. 14: Any data in your custody, possession, or control regarding communications that contain visual depictions of actual human beings engaged in actual or simulated sexually explicit conduct that are transferred by multimedia messaging services during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that the Request is vague in its use of the terms "data . . . regarding communications that contain visual depictions . . . that are transferred by." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant

to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. A large number of reports or publications may contain references to data or statistics regarding visual depictions of sexually-explicit images (for example, the number of child pornography convictions during a certain period), but defendant is unaware of any reasonable method of searching all reports or publications in its possession, custody, or control in a manner that could identify all such reports or publications that reference such data in connection with the transfer of such visual depictions by multimedia messaging services; rather, to the extent such a search were possible at all, it would require a highly burdensome manual review of each potentially-responsive document. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g.

Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence. As to the documents that have been located, defendant further objects to the production of those that are identified on the accompanying privilege log as protected by the deliberative process privilege and/or law enforcement privilege.

RESPONSE: Subject to and without waiving any objections, defendant will provide nonprivileged documents that he understands to be responsive to this Request and that have been located, and that defendant has not identified as publicly available. Defendant has identified the following documents in his possession as publicly available:

http://journals.lww.com/ajnonline/Fulltext/2011/07000/Original_Research_Online_Social_Net_working.21.aspx

<http://www.apa.org/pubs/journals/releases/amp-632111.pdf>

<http://www.unh.edu/ccrc/pdf/CV201.pdf>

<http://pediatrics.aappublications.org/content/129/1/13.full.html>

<http://pediatrics.aappublications.org/content/129/1/4.full>

http://www.missingkids.com/en_US/documents/law-enforcement-bulletin-4.pdf

http://www.unh.edu/ccrc/pdf/CV270_Child%20Porn%20Production%20Bulletin_4-13-12.pdf

<http://www.unh.edu/ccrc/pdf/CV204%20CP%20possessors.pdf>

<http://www.unh.edu/ccrc/pdf/jvq/CV81.pdf>

<https://web.cs.umass.edu/publication/docs/2012/UM-CS-2012-016.pdf>

PLAINTIFFS' RFP NO. 15: Any data in your custody, possession, or control regarding communications that contain visual depictions of actual human beings engaged in actual or simulated sexually explicit conduct that are transferred by electronic mail during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that the Request is vague in its use of the terms “data . . . regarding communications that contain visual depictions . . . that are transferred by.” Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney’s Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, “Request”] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. A large number of reports or publications may contain references to data or statistics regarding visual depictions of sexually-explicit images (for example, the number of child pornography convictions during a

certain period), but defendant is unaware of any reasonable method of searching all reports or publications in its possession, custody, or control in a manner that could identify all such reports or publications that reference such data in connection with the transfer of such visual depictions by electronic mail; rather, to the extent such a search were possible at all, it would require a highly burdensome manual review of each potentially-responsive document. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 16: Any data in your custody, possession, or control regarding communications that contain visual depictions of actual human beings engaged in actual or simulated sexually explicit conduct that are inserted on a computer site or service during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that the Request is vague in its use of the terms "data . . . regarding communications that contain visual depictions . . . that are inserted." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to

search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. A large number of reports or publications may contain references to data or statistics regarding visual depictions of sexually-explicit images (for example, the number of child pornography convictions during a certain period), but defendant is unaware of any reasonable method of searching all reports or publications in its possession, custody, or control in a manner that could identify all such reports or publications that reference such data in connection with the insertion of such visual depictions on a computer site or service; rather, to the extent such a search were possible at all, it would require a highly burdensome manual review of each potentially-responsive document. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further

objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence. As to the documents that have been located, defendant further objects to the production of those that are identified on the accompanying privilege log as protected by the deliberative process privilege and/or law enforcement privilege.

RESPONSE: Subject to and without waiving any objections, defendant will provide nonprivileged documents that he understands to be responsive to this Request and that have been located, and that defendant has not identified as publicly available. Defendant has identified the following documents in his possession as publicly available:

http://journals.lww.com/ajnonline/Fulltext/2011/07000/Original_Research_Online_Social_Net_working.21.aspx

<http://www.apa.org/pubs/journals/releases/amp-632111.pdf>

<http://www.unh.edu/ccrc/pdf/CV201.pdf>

<http://pediatrics.aappublications.org/content/129/1/13.full.html>

<http://pediatrics.aappublications.org/content/129/1/4.full>

http://www.missingkids.com/en_US/documents/law-enforcement-bulletin-4.pdf

http://www.unh.edu/ccrc/pdf/CV270_Child%20Porn%20Production%20Bulletin_4-13-12.pdf

<http://www.unh.edu/ccrc/pdf/CV204%20CP%20possessors.pdf>

<http://www.unh.edu/ccrc/pdf/jvq/CV81.pdf>

<https://web.cs.umass.edu/publication/docs/2012/UM-CS-2012-016.pdf>

PLAINTIFFS' RFP NO. 17: Any data in your custody, possession, or control regarding the production of visual depictions of actual human beings who are obviously mature adults engaged in actual or simulated sexually explicit conduct during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that the Request is vague in its use of the terms "data . . . regarding the production" and vague and ambiguous in its use of the term "obviously mature adults."

Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the

extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 18: Any data in your custody, possession, or control regarding communications that contain visual depictions of actual human beings who are obviously mature adults engaged in actual or simulated sexually explicit conduct that are transferred by multimedia messaging services during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that the Request is vague in its use of the terms "data . . . regarding communications that contain visual depictions . . . that are transferred by" and vague and ambiguous in its use of the term "obviously mature adults." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified

[hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 19: Any data in your custody, possession, or control regarding communications that contain visual depictions of actual human beings who are obviously mature adults engaged in actual or simulated sexually explicit conduct that are transferred by electronic mail during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that the Request is vague in its use of the terms "data . . . regarding

communications that contain visual depictions . . . that are transferred by” and vague and ambiguous in its use of the term “obviously mature adults.” Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney’s Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, “Request”] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead

to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 20: Any data in your custody, possession, or control regarding communications that contain visual depictions of actual human beings who are obviously mature adults engaged in actual or simulated sexually explicit conduct that are inserted on a computer site or service during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that the Request is vague in its use of the terms "data . . . regarding communications that contain visual depictions . . . that are inserted" and vague and ambiguous in its use of the term "obviously mature adults." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that

may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 21: Any data in your custody, possession, or control regarding the production of visual depictions of actual human beings who are less than 18 years of age engaged in actual or simulated sexually explicit conduct compared to the production of visual depictions of actual human beings who are more than 18 years of age engaged in actual or simulated sexually explicit conduct during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that the Request is vague in its use of the terms "data . . . regarding the production . . . compared to." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to

determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 22: Any data in your custody, possession, or control regarding the amount or percentage of communications that contain visual depictions of actual human beings who are less than 18 years of age engaged in actual or simulated sexually explicit conduct that are transferred by multimedia messaging services compared to the amount of such

communications that contain visual depictions of actual human beings who are more than 18 years of age engaged in actual or simulated sexually explicit conduct that are transferred by multimedia messaging services during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that the Request is vague in its use of the terms “data . . . regarding the amount or percentage of communications . . . compared to the amount of such communications.”

Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney’s Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, “Request”] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by

the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

PLAINTIFFS' RFP NO. 23: Any data in your custody, possession, or control regarding the amount or percentage of communications that contain visual depictions of actual human beings who are less than 18 years of age engaged in actual or simulated sexually explicit conduct that are transferred by electronic mail compared to the amount of such communications that contain visual depictions of actual human beings who are more than 18 years of age engaged in actual or simulated sexually explicit conduct that are transferred by electronic mail during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference. Defendant further objects that the Request is vague in its use of the terms "data . . . regarding the amount or percentage of communications . . . compared to the amount of such communications." Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it

requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

PLAINTIFFS' REP NO. 24: Any data in your custody, possession, or control regarding the amount or percentage of communications that contain visual depictions of actual human beings who are less than 18 years of age engaged in actual or simulated sexually explicit conduct that are inserted on a computer site or service compared to the amount of such communications that contain visual depictions of actual human beings who are more than 18 years of age engaged in actual or simulated sexually explicit conduct that are inserted on a computer site or service during the last ten years.

OBJECTIONS: Defendant incorporates his General Objections by reference.

Defendant further objects that the Request is vague in its use of the terms “data . . . regarding the amount or percentage of communications . . . compared to the amount of such communications.”

Defendant further objects that this Request is overbroad and unduly burdensome, in that it would require defendant to search multiple Department of Justice components, including thousands of

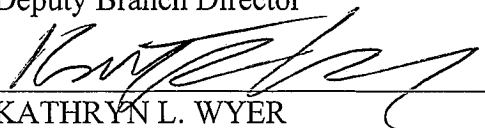
individual case files in United States Attorney's Offices and in field offices of the Federal Bureau of Investigation throughout the country in order to determine if individual case or investigation files contain information responsive to this Request. As discussed by counsel on September 24, 2012, plaintiffs have modified their request to seek only quantitative data or statistics, either alone or when contained in reports. However, defendant objects that this Request as modified [hereinafter, "Request"] continues to be overbroad and unduly burdensome to the extent it requires defendant to search reports and other publications that are publicly available on the Department of Justice National Institute of Justice or Bureau of Justice Statistics websites, the National Criminal Justice Reference Service website, or other websites, and/or to attempt to locate underlying data that may be referenced in such reports and other publications, and to the extent the Request seeks duplicative or cumulative information where the same aggregate data or statistics are reported in more than one report or publication. Defendant further objects to the extent the Request seeks information about individuals that is protected by the Privacy Act, 5 U.S.C. § 552A; 18 U.S.C. § 3509; and/or 42 U.S.C. 3789g. Defendant further objects to the extent the Request seeks data or statistics that are or are contained in material that is protected by the attorney-client privilege, work product doctrine, deliberative process privilege, or law enforcement privilege. Defendant further objects that the Request seeks information that is not relevant to any issues properly before the Court on remand and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE: Subject to and without waiving any objections, defendant responds as follows: Defendant has conducted a reasonable search for data responsive to this Request and has not found any responsive data.

November 9, 2012

Respectfully submitted,

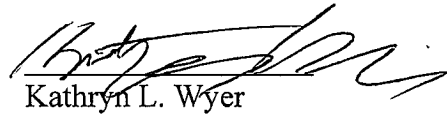
STUART F. DELERY
Acting Assistant Attorney General
ZANE DAVID MEMEGER
United States Attorney
VINCENT M. GARVEY
Deputy Branch Director



KATHRYN L. WYER
U.S. Department of Justice, Civil Division
20 Massachusetts Avenue, N.W.
Washington, DC 20530
Tel. (202) 616-8475 / Fax (202) 616-8470
kathryn.wyer@usdoj.gov
Attorneys for Defendant

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Defendant's Responses to Plaintiffs' First Set of Requests for Production has been served upon counsel for plaintiffs Lorraine Baumgardner and J. Michael Murray, Berkman, Gordon, Murray & DeVan, by email (lbaumgardner@bgmdlaw.com, jmmurray@bgmdlaw.com) on this 9th day of November, 2012.


Kathryn L. Wyer